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Submitted electronically

Mary Nichols
Chairperson
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Re: Proposed Second 15-day Proposed Regulation Changes to Cap and Trade

Dear Chairperson Nichols:

United Air Lines, Inc. (herein referred to as United or United Airlines) is pleased to have this opportunity to provide the following comments on the Proposed Second 15-Day Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap and Trade) released September 12, 2011.

We greatly appreciate that efforts were made to address certain of our comments that we submitted on August 11, 2011 (including with regard to the Mandatory Reporting Rule). There are a few issues that we believe warrant further consideration, including one related to new text proposed.

1. Natural Gas – Potential for Double Regulation – Section 95852

We continue to have concern that the structure of the regulation provides no protection against suppliers of natural gas including a cost for allowances within the price they seek for natural gas even though covered entities will have to ensure they have allowances that cover emissions associated with their combustion of natural gas.

Section 95852 provides that suppliers of RBOB, distillate fuel oils, natural gas liquids, and blended fuels are required to account for allowances for combustion of these fuels by their downstream users and there is not a concern regarding double-regulation since the downstream users are not required to account for such allowances. In contrast, while natural gas suppliers are required to hold allowances that represent the natural gas that is used by downstream users who do not fall under the scheme, they are not required to hold allowances for entities that fall under the scheme (covered entities) since those covered entities will be required to hold such allowances. Our concern is that there will be (at

best) confusion over this issue and (at worst) manipulation of this issue such that downstream users of natural gas who are covered entities will face both prices of natural gas that includes the cost for allowances (even though the provider does not have to obtain such allowances) while the covered entity must still obtain the allowances itself.

We note that ARB added language at Section 95852(c)(3) such that ARB will provide to the natural gas suppliers a list of all their customers that are covered entities - including information on the aggregate natural gas volumes and emissions calculated from the supplier's natural gas delivered to the covered entity. This is a helpful addition in that it may help natural gas providers to understand which of their downstream users already have to pay for their allowances; however, it doesn't provide any mechanism for avoiding (or addressing) the situation in which the natural gas provider still embeds the cost of allowances into the sale price for the covered entity (resulting in double-payment).

We continue to seek that ARB incorporate a mechanism to address this concern. Such a mechanism could include a requirement of transparency on the part of the natural gas provider along with a mechanism to discount the amount of allowances the downstream user is required to obtain in order to avoid a double payment.

2. Disposition of Allowances – Table 8-1

Table 8-1 discusses the disposition of allowances for various industries that meet specific criteria under the Cap and Trade regulations. We understand that ARB is continuing to review where industries are placed on Table 8-1 as it relates to later compliance periods and we intend to further dialogue with ARB regarding the appropriate placement of our industry.

3. Enforcement provisions Sections 95857 and 95858

We have the following comments on the enforcement provisions associated with the “Untimely Surrender of Compliance Instruments” (§95857) and “Compliance Obligations for Under-Reporting” (§95858).

a. Relationship between two enforcement provisions lacks clarity.

While we recognize there have been some edits made to Section 95858, we still find the relationship between Sections 95857 and 95858 is not adequately articulated in the regulation. This is of concern because while section 95858 has more structure and process, including time to purchase the additional needed allowances, section 95857 has much less clarity of process and is much more aggressive.

b. Trigger for 5-day window to come into compliance unclear under Section 95957:

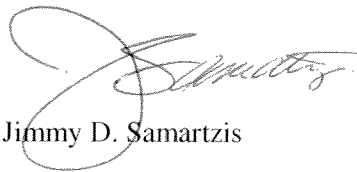
While Section 95858 provides for a notification from ARB when there has been under-reporting, there doesn't appear to be the same notification in Section 95957. Instead, there is a reference to an “assessment” (without reference to notification to the regulated entity) which triggers a short window to purchase additional allowances before a penalty of four (4) times the missing allowances is required.

c. Eight year enforcement period in Section 95858(d).

We were surprised to see the addition of language in Section 95858(d) which states that the ARB can go back eight years in determining whether there has been under-reporting of emissions. This is much longer than the time period provided for under most federal and state environmental regulations. The reason for shorter periods under many laws is the fairness of seeking to defend against such an enforcement action after a significant amount of time has passed. While there is an obligation to maintain records under the Cap and Trade for ten years, there can be related communications and documents which would serve to provide context to the circumstance, along with the potential for faded memories and changes in applicable personnel. We would ask that ARB re-consider inclusion of this enforcement time period in Cap and Trade regulation.

We appreciate the opportunity to provide these comments and look forward to working with ARB staff regarding these comments. Should you have any questions about these comments you may contact Suzanne Tedrow at (872) 825-8756 or Angela Foster-Rice at (312) 997-8235.

Sincerely,



Jimmy D. Samartzis

Cc: Suzanne Tedrow
Angela Foster-Rice
Robert Madigan